

1 SEAN P. FLYNN (SBN: 220184)
2 sflynn@gordonrees.com
3 GORDON & REES LLP
4 2211 Michelson Drive
5 Suite 400
6 Irvine, CA 92612
7 Telephone: (949) 255-6950
8 Facsimile: (949) 474-2060
9
10 Attorneys for Defendant
11 I.C. SYSTEM, INC.

12
13
14 UNITED STATES DISTRICT COURT
15 CENTRAL DISTRICT OF CALIFORNIA

16
17 Victor Shainsky,
18 Plaintiff,
19 vs.
20 I.C. System, Inc.,
21 Defendant.
22
23
24
25
26
27
28

CASE NO.
[Los Angeles Superior Court
Case17K01393]

**NOTICE OF LODGMENT OF
STATE COURT PLEADINGS**
[filed concurrently with Notice of
Removal and Civil Cover Sheet]

Complaint filed: January 30, 2017

Gordon & Rees LLP
2211 Michelson Drive Suite 400
Irvine, CA 92612

1 TO THIS HONORABLE COURT:

2 Pursuant to §1446(a), defendant I.C. System, Inc. ("ICS") hereby lodges true
3 and correct copies of all process, pleadings and orders served by or on ICS in the
4 Superior Court of the State of California for the County of Los Angeles, Case No.
5 17K01393.

6 Exhibit	7 Title	8 Party
1.	Complaint	Plaintiff

9
10
11 Dated: March 1, 2017

GORDON & REES LLP

12
13 By: s/Sean P. Flynn
14 Sean P. Flynn
15 Attorneys for Defendant
16 Receivables Performance
17 Management, LLC

Gordon & Rees LLP
2211 Michelson Drive Suite 400
Irvine, CA 92612

EXHIBIT 1

L7 Page 4 of

1 Todd M. Friedman (216752)
2 Adrian R. Bacon (280332)
3 Law Offices of Todd M. Friedman, P.C.
4 21550 Oxnard St., Ste 780
5 Woodland Hills, CA 91367
6 Phone: 877-206-4741
Fax: 866-633-0228
tfriedman@toddflaw.com
abacon@toddflaw.com
7 Attorneys for Plaintiff

**CONFORMED COPY
ORIGINAL FILED**
Superior Court of California
County of Los Angeles

JAN 30 2017

Sherri R. Carter, Executive Officer/Clerk
By Victor Sino-Cruz, Deputy

**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF LOS ANGELES
LIMITED JURISDICTION**

) Case No. 17K01393

)

) **COMPLAINT**

) (**Amount not to exceed \$10,000 but not**

) **\$25,000)**

)

) 1. Violation of Rosenthal Fair Debt
Collection Practices Act

) 2. Violation of Fair Debt Collection
Practices Act

) 3. Violation of Telephone Consumer
Protection Act

) 4. Violation of the California Consumer
Credit Reporting Agencies Act

I. INTRODUCTION

1. This is an action for damages brought by an individual consumer for Defendant's
violations of the Rosenthal Fair Debt Collection Practices Act, Cal Civ Code §1788, *et seq.*
(hereinafter "RFDCPA") and the Fair Debt Collection Practices Act, 15 U.S.C. §1692, *et seq.*
(hereinafter "FDCPA"), both of which prohibit debt collectors from engaging in abusive,
deceptive, and unfair practices. In addition, Plaintiff brings this claim for Defendant's
Violations of the California Consumer Credit Reporting Agencies Act, Cal. Civ. Code
§1785.25, *et seq.* Ancillary to the claims above, Plaintiff further alleges claims for Defendant's
violations of the Telephone Consumer Protection Act., 47 U.S.C. §227, *et seq.* (hereinafter
"TCPA").

Complaint - 1

BY FAX

II. PARTIES

2 2. Plaintiff, VICTOR SHAINSKY (“Plaintiff”), is a natural person residing in LOS
3 ANGELES County in the state of California, and is a “consumer” as defined by the FDCPA, 15
4 U.S.C. §1692a(3), is a “debtor” as defined by RFDCPA, Cal Civ Code §1788.2(h), and is a
5 “person” as defined by 47 U.S.C. § 153 (39).

6 3. At all relevant times herein, Defendant, I.C. System, Inc. (“Defendant”) was a
7 company engaged, by use of the mails and telephone, in the business of collecting a debt from
8 Plaintiff which qualifies as a “debt,” as defined by 15 U.S.C. §1692a(5), and a “consumer
9 debt,” as defined by Cal Civ Code §1788.2(f). Defendant regularly attempts to collect debts
10 alleged to be due another, and therefore is a “debt collector” as defined by the FDCPA, 15
11 U.S.C. §1692a(6), and RFDCPA, Cal Civ Code §1788.2(c). Further, Defendant uses an
12 “automatic telephone dialing system” as defined by the TCPA, 47 U.S.C. §227.

III. FACTUAL ALLEGATIONS

14 4. At various and multiple times prior to the filing of the instant complaint,
15 including within the one year preceding the filing of this complaint, Defendant contacted
16 Plaintiff regarding an alleged debt.

17 5. Prior to February of 2016, Plaintiff purchased internet services from third party,
18 AT&T. Plaintiff and AT&T agreed that Plaintiff would pay a certain rate in exchange for
19 receiving internet services.

20 6. Despite such representations, AT&T began charging Plaintiff at an increased
21 rate in order to use internet services.

22 7. Plaintiff called AT&T to cancel the internet services and was told by an AT&T
23 representative that they would cancel his bill and charge him at a pro rata rate.

24 8. Despite this, AT&T charged Plaintiff for the full amount and continued to
25 charge him even after he had made his cancellation request.

26 9. Plaintiff contested the amount of charged multiple times and AT&T continually
27 represented to Plaintiff that he would not need to pay the full amount.

10. Despite this, AT&T hired Defendant to collect this debt from Plaintiff.

1 11. Plaintiff informed Defendant multiple times that he did not owe the alleged debt;
2 however, Defendant continued to attempt to collect the alleged from Plaintiff.

3 12. In or around February of 2016, Defendant started making numerous phone calls
4 to Plaintiff regarding an alleged debt, and contacted Plaintiff's cell phone number ending in -
5 8871. Defendant has made numerous harassing calls to Plaintiff; Plaintiff had advised multiple
6 times for Defendant to stop making phone calls, but Defendant fails to cease the calls.
7 Defendant called Plaintiff from several phone numbers that were verified as numbers owned by
8 Defendant.

9 13. Defendant made enough calls to be considered harassment, and thus caused high
10 levels of stress to Plaintiff.

11 14. In or around 2016, Plaintiff attempted to purchase an automobile. It was at this
12 time that Plaintiff discovered that Defendant had reported the alleged debt on Plaintiff's credit
13 report. As a direct result of Defendant's false and inaccurate derogatory reporting of the alleged
14 debt, Plaintiff's consumer credit score has decreased

15 15. As a result of Defendant's actions, Plaintiff retained counsel. A notice of
16 representation was sent to Defendant on September 27, 2016. Defendant has failed to respond
17 favorably, if at all, to this letter as of present.

18 16. Furthermore, during all relevant times, Defendant used an "automatic telephone
19 dialing system", as defined by 47 U.S.C. § 227(a)(1), to place its repeated collection calls to
20 Plaintiff seeking to collect the debt allegedly owed.

21 17. Defendant's calls constituted calls that were not for emergency purposes as
22 defined by 47 U.S.C. § 227(b)(1)(A).

23 18. Defendant's calls were placed to telephone number assigned to a cellular
24 telephone service for which Plaintiff incur a charge for incoming calls pursuant to 47 U.S.C.
25 §227(b)(1).

26 19. During all relevant times, Defendant did not have Plaintiff's prior consent to be
27 contacted via an "automated telephone dialing system".

28 20. Defendant's conduct violated the FDCPA and the RFDCPA in multiple ways,
including but not limited to:

- 1
- 2 a) Causing a telephone to ring repeatedly or continuously to annoy Plaintiff (Cal Civ
3 Code § 1788.11(d));
- 4 b) Communicating, by telephone or in person, with Plaintiff with such frequency as to
5 be unreasonable and to constitute an harassment to Plaintiff under the circumstances
6 (Cal Civ Code § 1788.11(e));
- 7 c) Causing Plaintiffs telephone to ring repeatedly or continuously with intent to harass,
8 annoy or abuse Plaintiff (§ 1692d(5));
- 9 d) Communicating with Plaintiff at times or places which were known or should have
10 been known to be inconvenient for Plaintiff (§1692c(a)(1)) ;and
- 11 e) Engaging in conduct the natural consequence of which is to harass, oppress, or
12 abuse Plaintiff (§ 1692d)
- 13
- 14 f) Falsely representing the character, amount, or legal status of Plaintiff's debt (§
15 1692e(2)(A));
- 16 g) Using false representations and deceptive practices in connection with collection of
17 an alleged debt from Plaintiff (§ 1692e(10));
- 18 h) Communicating or threatening to communicate credit information which is
19 known or which should be known to be false (§ 1692e(8));

20 21. Defendant's conduct violated the TCPA by:

- 21
- 22 a) using any automatic telephone dialing system or an artificial or pre-
23 recorded voice to any telephone number assigned to a paging service,
24 cellular telephone service, specialized mobile radio service, or other
25 radio common carrier service, or any service for which the called party is
26 charged for the call (47 USC §227(b)(A)(iii)).

27 22. As a result of the above violations of the FDCPA, RFDCPA, and TCPA,
28 Plaintiff suffered and continues to suffer injury to Plaintiff's feelings, personal humiliation,

embarrassment, mental anguish and emotional distress. Defendant is liable to Plaintiff for Plaintiff's actual damages, statutory damages, and costs and attorney's fees.

**COUNT I: VIOLATION OF ROSENTHAL
FAIR DEBT COLLECTION PRACTICES ACT**

23. Plaintiff reincorporates by reference all of the preceding paragraphs.
 24. To the extent that Defendant's actions, counted above, violated the RFDCPA, actions were done knowingly and willfully.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
 - B. Statutory damages for willful and negligent violations;
 - C. Costs and reasonable attorney's fees,
 - D. For such other and further relief as may be just and proper.

**COUNT II: VIOLATION OF FAIR DEBT
COLLECTION PRACTICES ACT**

25. Plaintiff reincorporates by reference all of the preceding paragraphs.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against Defendant for the following:

- A. Actual damages;
 - B. Statutory damages;
 - C. Costs and reasonable attorney's fees; and,
 - D. For such other and further relief as may be just and proper.

COUNT III: VIOLATION OF TELEPHONE CONSUMER PROTECTION ACT

26. Plaintiff incorporates by reference all of the preceding paragraphs.
 27. The foregoing acts and omissions of Defendant constitute numerous and multiple negligent violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*
 28. As a result of Defendant's negligent violations of *47 U.S.C. § 227 et seq.*, Plaintiff is entitled an award of \$500.00 in statutory damages, for each and every violation, pursuant to *47 U.S.C. § 227(b)(3)(B)*.

29. The foregoing acts and omissions of Defendant constitute numerous and multiple knowing and/or willful violations of the TCPA, including but not limited to each and every one of the above cited provisions of *47 U.S.C. § 227 et seq.*

30. As a result of Defendant's knowing and/or willful violations of 47 U.S.C. § 227 et seq., Plaintiff is entitled an award of \$1,500.00 in statutory damages, for each and every violation, pursuant to 47 U.S.C. § 227(b)(3)(B) and 47 U.S.C. § 227(b)(3)(C).

31. Plaintiff is entitled to and seek injunctive relief prohibiting such conduct in the future.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully prays that judgment be entered against the Defendant for the following:

- A. As a result of Defendant's negligent violations of 47 U.S.C. §227(b)(1), Plaintiff is entitled to and requests \$500 in statutory damages, for each and every violation, pursuant to 47 U.S.C. 227(b)(3)(B);
 - B. As a result of Defendant's willful and/or knowing violations of 47 U.S.C. §227(b)(1), Plaintiff is entitled to and requests treble damages, as provided by statute, up to \$1,500, for each and every violation, pursuant to 47 U.S.C. §227(b)(3)(B) and 47 U.S.C. §227(b)(3)(C); and
 - C. Any and all other relief that the Court deems just and proper.

COUNT IV: CALIFORNIA CONSUMER CREDIT REPORTING AGENCIES ACT

32. Plaintiff incorporates the foregoing paragraphs as though the same were set forth at length herein.

33. California Civil Code § 1785.25 (a) states that a "person shall not furnish information on a specific transaction or experience to any consumer credit reporting agency if the person knows or should know the information is incomplete or inaccurate."

34. California Civil Code § 1785.25 (b) states that a furnisher that determines a report to a credit reporting agency is not accurate or complete shall promptly notify the consumer reporting agency of that determination and provide corrections to the consumer reporting agency that is necessary to make the information complete and accurate.

35. California Civil Code § 1785.25 (c) provides that if the completeness or accuracy of any information on a specific transaction or experience provided to a consumer reporting agency is disputed by the consumer, the furnisher may not continue reporting the information unless it provides a notice to the consumer reporting agency that the information is disputed by the consumer.

36. Defendant negligently and willfully furnished information to the credit reporting agencies it knew or should have known was inaccurate.

37. Based on these violations of Civil Code § 1785.25 (a), Plaintiff is entitled to the remedies afforded by Civil Code § 1785.31, including actual damages, attorney's fees, pain and suffering, injunctive relief, and punitive damages in an amount not less than \$100 nor more than \$5,000, for each violation as the Court deems proper.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests that judgment be entered against Defendant for the following:

- (a) Actual damages;
 - (b) Statutory damages;
 - (c) Costs and reasonable attorney's fees;
 - (d) For such other and further relief as the Court may deem just and proper.

PLAINTIFF HEREBY REQUESTS A TRIAL BY JURY

Respectfully submitted this 30th day of January, 2017.

By:

Todd M. Friedman, Esq.
Law Offices of Todd M. Friedman, P.C.
Attorney for Plaintiff

CERTIFICATE OF SERVICE

Pursuant to FRCP 5(b), I certify and declare that I am over the age of 18 years; I am an employee of Gordon & Rees LLP, and my business address is 2211 Michelson Drive, Suite 400, Irvine, California 92612. On **March 1, 2017**, I served a true and correct of the following: **NOTICE OF LODGMENT OF STATE COURT PLEADINGS** to the individuals listed below as follows:

Attorneys for Plaintiffs:

Law Offices of Todd M. Friedman PC
21550 Oxnard Street, Suite 780
Woodland Hills, CA 91367
Tel: 877-206-4741
Fax: 866-633-0228

- U.S. Mail Postage Prepaid
 CM/ECF
 Hand Delivery
 Email:
tfriedman@toddflaw.com
abacon@toddflaw.com

I declare that I am employed in the office of a member of the California State Bar who is permitted to practice before this Court, and at whose direction the service stated above was made in the ordinary course of business. I declare under the penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on March 1, 2017, at Irvine, California.

Leslie M. Handy

Leslie M. Handy